



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

(1) Ninth Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorney

Age: 77		PUBLIC GUARDIAN , Conservator, is Petitioner. Account period: 03/01/12 – 02/28/14 Accounting - \$255,650.95 Beginning POH - \$166,058.78 Ending POH - \$142,942.25 Conservator - \$1,048.16 (8.6 staff hours @ \$76/hr. and 4.11 deputy hours @ \$96/hr.) Attorney - \$1,250.00 (less than allowed per Local Rule) Bond fee - \$930.66 (ok) Petitioner prays for an Order: 1. Approving, allowing and settling the Ninth Account; 2. Authorizing the conservator and attorney's fees and commissions; and 3. Authorizing payment of the bond fee. Court Investigator Dina Calvillo filed a report on 06/30/14.	NEEDS/PROBLEMS/COMMENTS: 1. According to the Court's records there are \$750.00 in unpaid Court Investigator fees.
Cont. from			
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<input type="checkbox"/>	FTB Notice		
		Reviewed by: JF Reviewed on: 08/22/14 Updates: Recommendation: File 1 – Gauss	

(1) Petition for Settlement of First and Final Account; Petition for Final Distribution
and for (2) Allowance of Ordinary and Extraordinary

DOD: 1-1-85		DORIS A. JOHNSON , Administrator with Full IAEA with bond of \$75,000.00, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: Note: The intestate heirs to this estate would be Petitioner Doris Johnson, her two siblings Mildred Hodges and Leonard Bradley, and the issue of a post-deceased sibling Edna Cox: Darryl Cox, Cynthia Clanton, and Sharon Cox-Plousha. 1. This estate was opened in 2007 and sat dormant for seven years, incurring expenses, without any status report filed with the Court or served on heirs. This does not appear to have been a benefit to the estate; rather, it appears to have been detrimental. Petitioner does not address why the estate was not closed timely pursuant to Probate Code §12200. Examiner notes the following circumstances: <u>SEE ADDITIONAL PAGES</u>
		Account period: 1-1-85 through 7-18-14 Accounting: \$35,000.00 Beginning POH: \$35,000.00 Ending POH: \$7,401.44 (cash)	
	Aff.Sub.Wit.	Administrator (Statutory): \$760.00	
✓	Verified	Administrator (Extraordinary): \$1,000.00 (for the sale of the real property)	
✓	Inventory	Attorney (Statutory): \$760.00	
✓	PTC	Attorney (Extraordinary): \$1,000.00 (for the sale of the real property)	
✓	Not.Cred.	Administrator requests reimbursement) for the following expenses totaling \$13,835.31:	
✓	Notice of Hrg	<ul style="list-style-type: none"> \$8,419.43 for payments to City of Fresno for lien against the real property from 2001 through 2005 (see itemization) \$1,015.88 for property tax payments from 2002 through 2014 (see itemization) \$4,400.00 was paid for disking, weeding, and general cleanup; however, itemization is not provided since there is not sufficient cash in the estate for reimbursement of these expenses 	
✓	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
✓	Letters	8-27-07	
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
✓	9202		
✓	Order	Petitioner states the estate is insolvent and the remaining balance after payment of closing expenses should be distributed to Doris A. Johnson for reimbursement of expenses advanced for the benefit of the estate to the extent of the remaining assets.	
	Aff. Posting	Petitioner prays for an order that:	
	Status Rpt	<ol style="list-style-type: none"> Administration of this estate be closed; The first and final account be approved; Petitioner be allowed the sum of \$1,760.00 as its fee for ordinary and extraordinary services to the estate; Petitioner's attorney be allowed the sum of \$1,760.00 as its fee for ordinary and extraordinary services to the estate; All acts, transactions, sales, and investments of the personal representative be ratified, approved, and confirmed; and The remaining balance of the estate in the amount of \$3,881.44 be distributed to Petitioner as reimbursement for expenses advanced to the benefit of the estate. 	
	UCCJEA		
	Citation		
N/A	FTB Notice		

NEEDS/PROBLEMS/COMMENTS (CONT'D):

1. (Cont'd): The I&A filed in 2007 valued the real property at \$35,000.00 as of the decedent's date of death, which was in 1985; however, in 2007, the property's value was estimated at \$75,000.00. Bond was fixed at \$75,000.00 because Administrator was granted authority under IAEA to sell the property.

If the estate had been administered timely, there may have been proceeds available for distribution to the heirs. However, because it was not, the value decreased significantly between 2007 and 2014 and the Administrator incurred \$13,835.31 in expenses for which she now requests reimbursement, as well as expenses for bond premiums for seven years, for which she has apparently already reimbursed herself per the disbursements schedule.

Petitioner requests the Court approve all acts and transactions of the Administrator, without addressing these circumstances, and stating that her expenses incurred were beneficial to the estate. Need clarification.

2. Petitioner requests the full amount of statutory compensation as well as extraordinary compensation for herself and her attorney. The Court may require clarification with reference to the above circumstances and Probate Code §§ 12200 (noticed final account or report of status) and 12205 (Court may reduce compensation).
3. The Court may require notice to the surety for any further or continued hearing on this matter.

Note: Bond of \$75,000.00 was filed on 8-27-07 per Court records (Banner); however, the original bond does not appear to be in the file. The Court may require a copy of the bond for the file.

			NEEDS/PROBLEMS/COMMENTS: <u>OFF CALENDAR</u> Dismissal as to Petition for Settlement of First Account entered 8-19-14. Dismissal as to Petition to Remove entered 8-1-14.
	Aff.Sub.Wit.		
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	Inventory		
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	Not.Cred.		
✓	Notice of Hrg		
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	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: skc
			Reviewed on: 8-22-14
			Updates:
			Recommendation:
			File 6 - Calneck

Thomas J. Davis DOD: 6-5-00		JOSHUA DAVIS , Beneficiary, is Petitioner. Petitioner states he is a beneficiary of the Davis 1989 Family Trust dated 11-17-89 (the Trust) (Exhibit A). On or about the same date, Thomas and Wealthea Davis also created the Davis Family 1989 Life Insurance Trust (the Insurance Trust) (Exhibit B). The Family Trust became irrevocable on the settlors' deaths. The Insurance Trust was already irrevocable during their lifetimes. Petitioner states BRUCE NEILSEN is the successor trustee of both trusts.	NEEDS/PROBLEMS/COMMENTS: Continued from 5-19-14, 6-18-14, 7-16-14 As of 8-22-14, nothing further has been filed. <u>SEE ADDITIONAL PAGES</u>
Wealthea Davis DOD: 3-25-98			
Cont from 051914, 061814, 071614			
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		Petitioner states that following the death of Thomas Davis on 6-5-00, Petitioner, by his agent and CPA Tom Bell, inquired of Trustee Neilsen on multiple occasions about the nature of the Trust assets and timetable for distribution. Petitioner was aware that the decedents had owned real property in California, various stocks and bonds, as well as other assets to which Petitioner and the other named in this petition were beneficiaries. Petitioner has requested that Trustee Neilsen provide him with an account of his administration of the Trust, but Trustee Neilsen has not done so. Additionally, Petitioner believes portions of the trust property that were to be held fbo Trust beneficiaries and Insurance Trust beneficiaries have been used to make loans to beneficiaries other than Petitioner, all to the detriment of Petitioner and other beneficiaries who may have lost their share of Trust and Insurance Trust assets as a result of the breach of his duties to the beneficiaries by Trustee Neilsen.	
		<u>SEE ADDITIONAL PAGES</u>	
			Reviewed by: skc Reviewed on: 8-22-14 Updates: Recommendation: File 8 - Davis

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Petitioner states moreover, Trustee Neilsen has failed to require the execution of notes requirement repayments by the borrowers of the Trust and Insurance Trust assets, and/or that Trustee Neilsen has failed to require the repayment of principal and interest on the Trust and Insurance Trust monies by the borrowers, all to the detriment of Petitioner and the other beneficiaries.

Petitioner states the Trust estate was to be divided into 12 separate trusts immediately on the death of both settlors. Petitioner made inquiries of Trustee Neilsen as to what is held in the trust created for Petitioner, but Trustee Neilsen has not provided the requested information or any meaningful response. Petitioner is informed and believes that Trustee Neilsen has, without consent or knowledge of several of the beneficiaries, used Trust and/or Insurance Trust assets to fund business transactions initiated by other beneficiaries, all to the detriment of Petitioner and other beneficiaries.

Petitioner has been unable to determine what has been done with what portion of the Insurance Trust assets and the Trust assets which were to have been segregated from the rest of the Trust property and Insurance Trust property for Petitioner's benefit.

Petitioner requests the Court order as follows:

1. Directing Trustee Bruce Neilsen to prepare and file a complete account and report of his administration of the Davis 1989 Family Trust and the Davis 1989 Life Insurance Trust for the period of June 6, 2000 through March 31, 2014, inclusive;
2. Directing Trustee Bruce Neilsen to set the Account and Report for hearing and give notice of same pursuant to §17203;
3. Awarding Petitioner reasonable attorneys' fees and costs incurred in this matter; and
4. Granting any and all other relief as the Court deems just and proper.

SEE ADDITIONAL PAGES

NEEDS/PROBLEMS/COMMENTS:

1. This petition requests accountings for two separate trusts. The two separate trusts have separate terms, separate assets, and separate purposes, and as such consideration by the Court requires separate petitions, separate notice, separate files, separate filing fees, and ultimately separate accountings.

The Court may designate this case number as the Family Trust file and direct Petitioner to initiate a separate proceeding regarding the Life Insurance Trust.

2. Also, per its terms, the Family Trust was to immediately divide into twelve (12) separate trusts, only one of which was for Petitioner's benefit. Need clarification and authority regarding the scope of the request for accounting(s).

Note: The language in the instruments differentiates between division into separate trusts and into separate shares, as contemplated by the Life Insurance Trust.

3. Notice appears to have been mailed to six people as couples, rather than as individuals entitled to direct notice. The Court may require amended direct service pursuant to Cal. Rules of Court 7.51.
4. Probate Code §17200(b)(7) provides that the Court can compel the trustee to provide information or account if the trustee has failed to provide the requested information within 60 days after the beneficiary's reasonable written request. Here, Petitioner states that he requested information after the settlors' deaths, which was approx. 14 years ago, but Petitioner does not state if any recent written request was made pursuant to §17200(b)(7), or what response was received, if any, pursuant to the written request. The Court may require clarification as to whether this petition may be prematurely filed pursuant to §17200(b)(7) and may require continuance for formal request and response. (Note: The requests should be separated for each trust pursuant to the above items.)